

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of:

KATHY L. NESMON  
24405 Shake Ridge Road

Volcano, CA 95689

Registered Nurse License No. 569422

Respondent.

Case No. 2006-24

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties that  
the following matters are true:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of the Board of Registered Nursing, who brought this action solely in her official capacity.
2. Kathy L. Nesmon (Respondent), is a probationary registered nurse.

JURISDICTION

3. On June 1, 2006, the Board of Registered Nursing adopted Stipulated Settlement and Disciplinary Order No. 2006-24, which became effective on July 3, 2006. The Stipulated Settlement and Disciplinary Order requires, inter alia, the respondent to serve a 3-year probation term that includes Probation Conditions # 1-21. The Stipulated Settlement and Disciplinary Order is attached as exhibit A and incorporated herein by reference.

Condition #13 of the Stipulated Settlement and Disciplinary Order allows the Board of Registered Nursing to accept the surrender of the respondent's license if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation.

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5. Respondent understands that by signing this stipulation she enables the Board to accept the surrender of her Registered Nurse License without further process.

6. The Respondent understands and agrees that by signing this Stipulated Settlement, that she may not withdraw her agreement or seek to rescind the stipulation prior to the date it becomes effective. If the Board declines to accept this stipulation as its Decision and Order, the Stipulated Surrender and Order shall be of no force or effect.

8. In consideration of the foregoing stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

IT IS HEREBY ORDERED that Registered Nurse License No. 569422, issued to Respondent Kathy L. Nesmon, is surrendered and the surrender is accepted by the Board of Registered Nursing.

10. Respondent shall lose all rights and privileges as a Registered Nurse in California as of the effective date of the Board's Decision and Order.

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2           11.   Respondent shall cause to be delivered to the Board both her wall and  
3 pocket license certificate on or before the effective date of the Decision and Order.

4           12.   Respondent fully understands and agrees that if she ever files an  
5 application for licensure or a petition for reinstatement in the State of California, the Board  
6 shall treat it as a petition for reinstatement. Respondent must comply with all the laws,  
7 regulations and procedures for reinstatement of a revoked license in effect at the time the  
8 petition is filed. .

9           13.   Upon reinstatement of the license or prior to issuance of any new  
10 license by the Board, Respondent shall pay to the Board costs associated with its investigation  
11 and enforcement pursuant to Business and Professions Code section 125.3 in the amount of  
12 \$6855.00 which is the amount currently owed pursuant to Stipulated Settlement and  
13 Disciplinary Order No. 2006-24 (Exhibit A). If the reinstatement of Respondent's license is  
14 granted, Respondent shall be permitted to pay these costs in a payment plan approved by the  
15 Board.

16           14.   Respondent shall not apply for licensure or petition for reinstatement for  
17 1 years from the effective date of the Board of Registered Nursing's Decision and Order.  
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DATED: 4/30/2009

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BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of:

Case No. 2006-24

KATHY L. NESMON  
24405 Shake Ridge Road

Volcano, CA 95689

Registered Nurse License No. 569422

Respondent.

**DECISION AND ORDER**

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

It is so ORDERED on June 16, 2009.

This Decision shall become effective on June 16, 2009.

Ruth Ann Terry  
Ruth Ann Terry, Executive Officer  
FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

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**EXHIBIT "A"**

Stipulated Settlement and Disciplinary Order No. 2006-24

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KATHY L. NESMON  
24405 Shake Ridge Road  
Volcano, CA 95689

Registered Nurse License No. 569422

Respondent

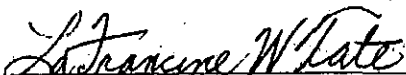
Case No. 2006-24

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on July 3, 2006.

IT IS SO ORDERED June 1, 2006.



Vice-President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 BILL LOCKYER, Attorney General  
of the State of California  
2 ELENA L. ALMANZO, State Bar No. 131058  
Deputy Attorney General  
3 California Department of Justice  
1300 I Street, Suite 125  
4 P.O. Box 944255  
Sacramento, CA 94244-2550  
5 Telephone: (916) 322-5524  
Facsimile: (916) 327-8643

6 Attorneys for Complainant

7  
8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the First Amended Accusation  
13 Against:

Case No. 2006-24

14 KATHY L. NESMON,  
aka KATHY LYNNE NESMON  
15 24405 Shake Ridge Road  
Volcano, CA 95689  
and  
424 Rico Street #A  
Salinas, CA 93907

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16 Registered Nurse License No. 569422

17 Respondent.

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
20 above-entitled proceedings that the following matters are true:

21 PARTIES

22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of  
23 the Board of Registered Nursing. She brought this action solely in her official capacity and is  
24 represented in this matter by Bill Lockyer, Attorney General of the State of California, by  
25 Elena L. Almanzo, Deputy Attorney General.

26 2. Respondent Kathy L. Nesmon, Kathy Lynne Nesmon (Respondent), is  
27 representing herself in this proceeding and has chosen not to exercise her right to be represented  
28 by counsel.

3. On or about July 28, 2000, the Board of Registered Nursing issued Registered Nurse No. 569422 to Kathy L. Nesmon, aka Kathy Lynne Nesmon (Respondent). Said license expires August 31, 2006.

## JURISDICTION

4. On or about July 9, 2005, Accusation No. 2006-24 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs. The Accusation and all other statutorily required documents were properly served on Respondent on September 15, 2005. Respondent timely filed her Notice of Defense contesting the Accusation. On or about January 26, 2006, the First Amended Accusation was filed and was served on Respondent on February 7, 2006. A copy of Accusation No. 2006-24 is attached as exhibit A and incorporated herein by reference. A copy of the First Amended Accusation No. 2006-24 is attached as exhibit B and is incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in the First Amended Accusation No. 2006-24. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in paragraphs 18 through 25 and 29 through 31 of the First Amended Accusation No. 2006-24.

1 Respondent further agrees that a factual basis exists for the purpose of imposing discipline based  
2 upon the charges and allegations set forth in paragraphs 26-28.

3 9. Respondent agrees that in any future disciplinary proceeding all allegations  
4 set forth in the First Amended Accusation No. 2006-24 shall be deemed true.

5 10. Respondent agrees that her Registered Nurse is subject to discipline and  
6 she agrees to be bound by the Board of Registered Nursing (Board) 's imposition of discipline as  
7 set forth in the Disciplinary Order below.

8 CONTINGENCY

9 11. This stipulation shall be subject to approval by the Board of Registered  
10 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the  
11 Board of Registered Nursing may communicate directly with the Board regarding this stipulation  
12 and settlement, without notice to or participation by Respondent. By signing the stipulation,  
13 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind  
14 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt  
15 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall  
16 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action  
17 between the parties, and the Board shall not be disqualified from further action by having  
18 considered this matter.

19 12. The parties understand and agree that facsimile copies of this Stipulated  
20 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
21 force and effect as the originals.

22 13. In consideration of the foregoing admissions and stipulations, the parties  
23 agree that the Board may, without further notice or formal proceeding, issue and enter the  
24 following Disciplinary Order:

25 DISCIPLINARY ORDER

26 IT IS HEREBY ORDERED that Registered Nurse license No. 569422 issued to  
27 Respondent Kathy L. Nesmo, aka Kathy Lynne Nesmon (Respondent), is revoked. However, the

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1 revocation is stayed and Respondent is placed on probation for three (3) years on the following  
2 terms and conditions.

3           **Severability Clause.** Each condition of probation contained herein is a separate  
4 and distinct condition. If any condition of this Order, or any application thereof, is declared  
5 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other  
6 applications thereof, shall not be affected. Each condition of this Order shall separately be valid  
7 and enforceable to the fullest extent permitted by law.

8           1.       **Obey All Laws.** Respondent shall obey all federal, state and local laws.  
9 A full and detailed account of any and all violations of law shall be reported by Respondent to  
10 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of  
11 compliance with this condition, Respondent shall submit completed fingerprint forms and  
12 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted  
13 as part of the licensure application process.

14           **Criminal Court Orders:** If Respondent is under criminal court orders, including  
15 probation or parole, and the order is violated, this shall be deemed a violation of these probation  
16 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

17           2.       **Comply with the Board's Probation Program.** Respondent shall fully  
18 comply with the conditions of the Probation Program established by the Board and cooperate  
19 with representatives of the Board in its monitoring and investigation of the Respondent's  
20 compliance with the Board's Probation Program. Respondent shall inform the Board in writing  
21 within no more than 15 days of any address change and shall at all times maintain an active,  
22 current license status with the Board, including during any period of suspension.

23           Upon successful completion of probation, Respondent's license shall be fully  
24 restored.

25           3.       **Report in Person.** Respondent, during the period of probation, shall  
26 appear in person at interviews/meetings as directed by the Board or its designated  
27 representatives.

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1                   4.       **Residency, Practice, or Licensure Outside of State.** Periods of  
2 residency or practice as a registered nurse outside of California shall not apply toward a reduction  
3 of this probation time period. Respondent's probation is tolled, if and when she resides outside  
4 of California. Respondent must provide written notice to the Board within 15 days of any change  
5 of residency or practice outside the state, and within 30 days prior to re-establishing residency or  
6 returning to practice in this state.

7                   Respondent shall provide a list of all states and territories where she has ever been  
8 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further  
9 provide information regarding the status of each license and any changes in such license status  
10 during the term of probation. Respondent shall inform the Board if she applies for or obtains a  
11 new nursing license during the term of probation.

12                   5.       **Submit Written Reports.** Respondent, during the period of probation,  
13 shall submit or cause to be submitted such written reports/declarations and verification of actions  
14 under penalty of perjury, as required by the Board. These reports/declarations shall contain  
15 statements relative to Respondent's compliance with all the conditions of the Board's Probation  
16 Program. Respondent shall immediately execute all release of information forms as may be  
17 required by the Board or its representatives.

18                   Respondent shall provide a copy of this Decision to the nursing regulatory agency  
19 in every state and territory in which she has a registered nurse license.

20                   6.       **Function as a Registered Nurse.** Respondent, during the period of  
21 probation, shall engage in the practice of registered nursing in California for a minimum of 24  
22 hours per week for 6 consecutive months or as determined by the Board.

23                   For purposes of compliance with the section, "engage in the practice of registered  
24 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or  
25 work in any non-direct patient care position that requires licensure as a registered nurse.

26                   The Board may require that advanced practice nurses engage in advanced practice  
27 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the  
28 Board.

1           If Respondent has not complied with this condition during the probationary term,  
2 and Respondent has presented sufficient documentation of her good faith efforts to comply with  
3 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
4 grant an extension of Respondent's probation period up to one year without further hearing in  
5 order to comply with this condition. During the one year extension, all original conditions of  
6 probation shall apply.

7           **7. Employment Approval and Reporting Requirements.** Respondent  
8 shall obtain prior approval from the Board before commencing or continuing any employment,  
9 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
10 performance evaluations and other employment related reports as a registered nurse upon request  
11 of the Board.

12           Respondent shall provide a copy of this Decision to her employer and immediate  
13 supervisors prior to commencement of any nursing or other health care related employment.

14           In addition to the above, Respondent shall notify the Board in writing within  
15 seventy-two (72) hours after she obtains any nursing or other health care related employment.  
16 Respondent shall notify the Board in writing within seventy-two (72) hours after she is  
17 terminated or separated, regardless of cause, from any nursing, or other health care related  
18 employment with a full explanation of the circumstances surrounding the termination or  
19 separation.

20           **8. Supervision.** Respondent shall obtain prior approval from the Board  
21 regarding Respondent's level of supervision and/or collaboration before commencing or  
22 continuing any employment as a registered nurse, or education and training that includes patient  
23 care.

24           Respondent shall practice only under the direct supervision of a registered nurse  
25 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative  
26 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)  
27 are approved.

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Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

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1           If Respondent is determined to be unable to practice safely as a registered nurse,  
2 the licensed physician, nurse practitioner, or physician assistant making this determination shall  
3 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
4 Attorney General's office prepare an accusation or petition to revoke probation. Respondent  
5 shall immediately cease practice and shall not resume practice until notified by the Board.  
6 During this period of suspension, Respondent shall not engage in any practice for which a license  
7 issued by the Board is required until the Board has notified Respondent that a medical  
8 determination permits Respondent to resume practice. This period of suspension will not apply  
9 to the reduction of this probationary time period.

10           If Respondent fails to have the above assessment submitted to the Board within  
11 the 45-day requirement, Respondent shall immediately cease practice and shall not resume  
12 practice until notified by the Board. This period of suspension will not apply to the reduction of  
13 this probationary time period. The Board may waive or postpone this suspension only if  
14 significant, documented evidence of mitigation is provided. Such evidence must establish good  
15 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be  
16 provided. Only one such waiver or extension may be permitted.

17           **15. Participate in Treatment/Rehabilitation Program for Chemical**  
18 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary  
19 period or shall have successfully completed prior to commencement of probation a Board-  
20 approved treatment/rehabilitation program of at least six months duration. As required, reports  
21 shall be submitted by the program on forms provided by the Board. If Respondent has not  
22 completed a Board-approved treatment/rehabilitation program prior to commencement of  
23 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in  
24 a program. If a program is not successfully completed within the first nine months of probation,  
25 the Board shall consider Respondent in violation of probation.

26           Based on Board recommendation, each week Respondent shall be required to  
27 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics  
28 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed

1 by the Board. If a nurse support group is not available, an additional 12-step meeting or  
2 equivalent shall be added. Respondent shall submit dated and signed documentation confirming  
3 such attendance to the Board during the entire period of probation. Respondent shall continue  
4 with the recovery plan recommended by the treatment/rehabilitation program or a licensed  
5 mental health examiner and/or other ongoing recovery groups.

6           **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent  
7 shall completely abstain from the possession, injection or consumption by any route of all  
8 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when  
9 the same are ordered by a health care professional legally authorized to do so as part of  
10 documented medical treatment. Respondent shall have sent to the Board, in writing and within  
11 fourteen (14) days, by the prescribing health professional, a report identifying the medication,  
12 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the  
13 medication will no longer be required, and the effect on the recovery plan, if appropriate.

14           Respondent shall identify for the Board a single physician, nurse practitioner or  
15 physician assistant who shall be aware of Respondent's history of substance abuse and will  
16 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled  
17 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician  
18 assistant shall report to the Board on a quarterly basis Respondent's compliance with this  
19 condition. If any substances considered addictive have been prescribed, the report shall identify a  
20 program for the time limited use of any such substances.

21           The Board may require the single coordinating physician, nurse practitioner, or  
22 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in  
23 addictive medicine.

24           **17. Submit to Tests and Samples.** Respondent, at her expense, shall  
25 participate in a random, biological fluid testing or a drug screening program which the Board  
26 approves. The length of time and frequency will be subject to approval by the Board.  
27 Respondent is responsible for keeping the Board informed of Respondent's current telephone  
28 number at all times. Respondent shall also ensure that messages may be left at the telephone

1 number when she is not available and ensure that reports are submitted directly by the testing  
2 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately  
3 to the Board by the program and Respondent shall be considered in violation of probation.

4 In addition, Respondent, at any time during the period of probation, shall fully  
5 cooperate with the Board or any of its representatives, and shall, when requested, submit to such  
6 tests and samples as the Board or its representatives may require for the detection of alcohol,  
7 narcotics, hypnotics, dangerous drugs, or other controlled substances.

8 If Respondent has a positive drug screen for any substance not legally authorized  
9 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the  
10 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent  
11 from practice pending the final decision on the petition to revoke probation or the accusation.  
12 This period of suspension will not apply to the reduction of this probationary time period.

13 If Respondent fails to participate in a random, biological fluid testing or drug  
14 screening program within the specified time frame, Respondent shall immediately cease practice  
15 and shall not resume practice until notified by the Board. After taking into account documented  
16 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the  
17 Board may suspend Respondent from practice pending the final decision on the petition to  
18 revoke probation or the accusation. This period of suspension will not apply to the reduction of  
19 this probationary time period.

20 18. **Mental Health Examination.** Respondent shall, within 45 days of the  
21 effective date of this Decision, have a mental health examination including psychological testing  
22 as appropriate to determine her capability to perform the duties of a registered nurse. The  
23 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
24 practitioner approved by the Board. The examining mental health practitioner will submit a  
25 written report of that assessment and recommendations to the Board. All costs are the  
26 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a  
27 result of the mental health examination will be instituted and followed by Respondent.

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1           If Respondent is determined to be unable to practice safely as a registered nurse,  
2 the licensed mental health care practitioner making this determination shall immediately notify  
3 the Board and Respondent by telephone, and the Board shall request that the Attorney General's  
4 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
5 practice and may not resume practice until notified by the Board. During this period of  
6 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
7 is required, until the Board has notified Respondent that a mental health determination permits  
8 Respondent to resume practice. This period of suspension will not apply to the reduction of this  
9 probationary time period.

10           If Respondent fails to have the above assessment submitted to the Board within  
11 the 45-day requirement, Respondent shall immediately cease practice and shall not resume  
12 practice until notified by the Board. This period of suspension will not apply to the reduction of  
13 this probationary time period. The Board may waive or postpone this suspension only if  
14 significant, documented evidence of mitigation is provided. Such evidence must establish good  
15 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be  
16 provided. Only one such waiver or extension may be permitted.

17           **19. Therapy or Counseling Program.** Respondent, at her expense, shall  
18 participate in an on-going counseling program until such time as the Board releases her from this  
19 requirement and only upon the recommendation of the counselor. Written progress reports from  
20 the counselor will be required at various intervals.

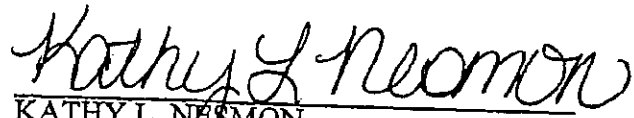
21           **21. Physical Examination.** Within 45 days of the effective date of this  
22 decision, respondent, at her expense, shall have a licensed physician, nurse practitioner, or  
23 physician assistant, who is approved by the Board before the assessment is performed, submit an  
24 assessment of the respondent's physical condition and capability to perform the duties of a  
25 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
26 medically determined, a recommended treatment program will be instituted and followed by the  
27 respondent with the physician, nurse practitioner, or physician assistant providing written reports  
28 on forms provided by the Board.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Registered Nurse license. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 3/20/06

  
KATHY L. NESMON  
aka Kathy Lynne Nesmon  
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 3/20/06

BILL LOCKYER, Attorney General  
of the State of California

  
ELENA L. ALMANZO  
Deputy Attorney General

Attorneys for Complainant

**Exhibit A**  
**Accusation No. 2006-24**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 ELENA L. ALMANZO, State Bar No. 131058  
Deputy Attorney General  
3 California Department of Justice  
1300 I Street, Suite 125  
4 P.O. Box 944255  
Sacramento, CA 94244-2550  
5 Telephone: (916) 322-5524  
Facsimile: (916) 327-8643  
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7 Attorneys for Complainant  
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9

10 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2006-24*

13 **KATHY L. NESMON,**  
**aka KATHY LYNNE NESMON**  
14 24405 Shake Ridge Road  
Volcano, CA 95689  
15 -and-  
424 Rico Street, #A  
16 Salinas, CA 93907

**ACCUSATION**

17 Registered Nurse License No. 569422

18 Respondent.  
19

20 Complainant alleges:

21 **PARTIES**

22 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation  
23 solely in her official capacity as the Executive Officer of the Board of Registered Nursing  
24 ("Board"), Department of Consumer Affairs.

25 2. On or about July 28, 2000, the Board issued Registered Nurse License  
26 Number 569422 to Kathy L. Nesmon, also known as Kathy Lynne Nesmon ("Respondent").  
27 Respondent's license was in full force and effect at all times relevant to the charges brought  
28 herein and will expire on August 31, 2006, unless renewed.

## STATUTORY PROVISIONS

3. Business and Professions Code ("Bus. & Prof. Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Bus. & Prof. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct . . .

....

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it . . .

5. Bus. & Prof. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

....

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

6. Health & Safety Code ("Health & Saf. Code") section 11170 states that no person shall prescribe, administer, or furnish a controlled substance for himself.

7. Health & Saf. Code section 11173, subdivision (a), states:

No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

///

1 8. Health & Saf. Code section 11368 states:

2 Every person who forges or alters a prescription or who issues or utters an  
3 altered prescription, or who issues or utters a prescription bearing a forged or  
4 fictitious signature for any narcotic drug, or who obtains any narcotic drug by  
5 any forged, fictitious, or altered prescription, or who has in possession any  
6 narcotic drug secured by a forged, fictitious, or altered prescription, shall be  
7 punished by imprisonment in the county jail for not less than six months nor  
8 more than one year, or in the state prison.

6 Cost Recovery

7 9. Bus. & Prof. Code section 125.3 provides, in pertinent part, that the Board  
8 may request the administrative law judge to direct a licentiate found to have committed a  
9 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
10 investigation and enforcement of the case.

11 CONTROLLED SUBSTANCES AT ISSUE

12 10. "Vicodin," a combination drug containing hydrocodone bitartrate and  
13 acetaminophen, is a Schedule III controlled substance as designated by Health & Saf. Code  
14 section 11056, subdivision (e)(2).

15 11. "Amphetamines" are Schedule II controlled substances as designated by  
16 Health & Saf. Code section 11055, subdivision (d)(1).

17 12. "Methamphetamine" is a Schedule II controlled substance as designated by  
18 Health & Saf. Code section 11055, subdivision (d)(2).

19 13. "Hydrocodone" is a Schedule II controlled substance as designated by  
20 Health & Saf. Code section 11055, subdivision (b)(1)(J).

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1                   **Self-Administration of Controlled Substances:**

2                   20.     On or before July 20, 2004, Respondent self-administered an unknown  
3     quantity of the controlled substances, methamphetamine, hydrocodone, and amphetamine  
4     without lawful authority therefor, as follows:

5                   21.     On July 20, 2004, during an interview by an investigator with the Division  
6     of Investigation, Department of Consumer Affairs<sup>1</sup>, Respondent agreed to provide a urine  
7     specimen for drug testing. The investigator witnessed and collected the urine specimen from  
8     Respondent and it was sent to Valley Toxicology Laboratory for analysis. Respondent tested  
9     positive for, among other things, methamphetamine, hydrocodone, and amphetamine.

10                  22.     On September 2, 2004, the investigator sent Respondent a letter, notifying  
11     Respondent that she had tested positive for various drugs and requesting proof of all prescription  
12     medications she was taking. Respondent provided the Board with a prescription for  
13     hydrocodone/APAP she had filled at Rite Aid Pharmacy on *October 7, 2004*. Respondent has  
14     failed to provide the Board with any documentation or proof that she had lawful prescriptions for  
15     hydrocodone, methamphetamine, or amphetamines in effect as of the date of her drug screen.

16                               **SECOND CAUSE FOR DISCIPLINE**

17                   **(Falsification of a Record Pertaining to Controlled Substances)**

18                  23.     Respondent is subject to disciplinary action pursuant to Code section  
19     2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section  
20     2762, subdivision (e), in that on and between March 26, 2003, and March 27, 2003, while  
21     employed as a registered nurse in the Emergency Department at Methodist Hospital, Sacramento,  
22     California, Respondent falsified a record pertaining to the controlled substance Vicodin, as set  
23     forth in paragraphs 15 through 19 above.

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28     1. The Division of Investigation conducted an investigation on behalf of the Board regarding the  
   allegation against Respondent for prescription tampering.

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3. Taking such other and further action as deemed necessary and proper.

DATED: 7/9/05

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

Complainant

**Exhibit B**

**First Amended Accusation No. 2006-24**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 ELENA L. ALMANZO, State Bar No. 131058  
Deputy Attorney General  
3 California Department of Justice  
1300 I Street, Suite 125  
4 P.O. Box 944255  
Sacramento, CA 94244-2550  
5 Telephone: (916) 322-5524  
Facsimile: (916) 327-8643

6 Attorneys for Complainant  
7

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation  
Against:

12 **KATHY L. NESMON,**  
13 **aka KATHY LYNNE NESMON**  
24405 Shake Ridge Road  
14 Volcano, CA 95689  
-and-  
15 424 Rico Street, #A  
Salinas, CA 93907

16 Registered Nurse License No. 569422

17 Respondent.  
18

Case No. 2006-24

OAH No. N2005100266

**FIRST AMENDED ACCUSATION**

19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this First Amended  
22 Accusation solely in her official capacity as the Executive Officer of the Board of Registered  
23 Nursing ("Board"), Department of Consumer Affairs. This First Amended Accusation replaces  
24 nunc pro tunc the Accusation heretofore filed.

25 2. On or about July 28, 2000, the Board issued Registered Nurse License  
26 Number 569422 to Kathy L. Nesmon, also known as Kathy Lynne Nesmon ("Respondent").  
27 Respondent's license was in full force and effect at all times relevant to the charges brought  
28 herein and will expire on August 31, 2006, unless renewed.

## STATUTORY PROVISIONS

3. Business and Professions Code ("Bus. & Prof. Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Bus. & Prof. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct . . .

....

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it . . .

5. Bus. & Prof. Code section 2762 states, in pertinent part:

\* In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

....

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

6. Health & Safety Code ("Health & Saf. Code") section 11170 states that no person shall prescribe, administer, or furnish a controlled substance for himself.

7. Health & Saf. Code section 11173, subdivision (a), states:

No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

///

1 8. Health & Saf. Code section 11368 states:

2 Every person who forges or alters a prescription or who issues or utters an  
3 altered prescription, or who issues or utters a prescription bearing a forged or  
4 fictitious signature for any narcotic drug, or who obtains any narcotic drug by  
5 any forged, fictitious, or altered prescription, or who has in possession any  
6 narcotic drug secured by a forged, fictitious, or altered prescription, shall be  
7 punished by imprisonment in the county jail for not less than six months nor  
8 more than one year, or in the state prison.

6 Cost Recovery

7 9. Bus. & Prof. Code section 125.3 provides; in pertinent part, that the Board  
8 may request the administrative law judge to direct a licentiate found to have committed a  
9 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
10 investigation and enforcement of the case.

11 CONTROLLED SUBSTANCES AT ISSUE

12 10. "Vicodin," a combination drug containing hydrocodone bitartrate and  
13 acetaminophen, is a Schedule III controlled substance as designated by Health & Saf. Code  
14 section 11056, subdivision (e)(2).

15 11. "Amphetamines" are Schedule II controlled substances as designated by  
16 Health & Saf. Code section 11055, subdivision (d)(1).

17 12. "Methamphetamine" is a Schedule II controlled substance as designated by  
18 Health & Saf. Code section 11055, subdivision (d)(2).

19 13. "Hydrocodone" is a Schedule II controlled substance as designated by  
20 Health & Saf. Code section 11055, subdivision (b)(1)(J).

21 14. "Cocaine/cocaine metabolites" are Schedule II controlled substances as  
22 designated by Health & Saf. Code section 11055, subdivision (b)(6).

23 15. "Codeine" is a Schedule II controlled substance as designated by Health &  
24 Saf. Code section 11055, subdivision (b)(1)(H).

25 16. "Morphine/Morphine Sulfate" is a Schedule II controlled substance as  
26 designated by Health & Saf. Code section 11055, subdivision (b)(1)(M).

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**FIRST CAUSE FOR DISCIPLINE**

**(Prescription and Self-Administration of Controlled Substances)**

17. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Bus. & Prof. Code section 2762, subdivision (a), as follows:

**Unlawful Prescription of Controlled Substances:**

18. On and between March 26, 2003, and March 27, 2003, while employed as a registered nurse in the Emergency Department at Methodist Hospital, Sacramento, California, Respondent prescribed three refills of the controlled substance Vicodin for herself, in violation of Health & Saf. Code section 11170, as follows:

19. On March 26, 2003, Respondent received treatment from physician's assistant, K.W., in the Urgent Care Center at Methodist Hospital for an ankle sprain she had sustained that day. K.W. gave Respondent a prescription for 15 tablets of Vicodin 5/500 with no refills. Respondent was also dispensed a "6 pack" of Vicodin. Respondent went to work in the Emergency Department following her treatment.

20. That same day, Respondent approached Dr. L. while on duty and asked him for a prescription for Vicodin. Dr. L. wrote Respondent a prescription for 15 tablets of Vicodin 7.5 mg *with no refills*.

21. On March 27, 2003, Walgreens Pharmacy (Elk Grove, California) called the Emergency Department and asked Dr. L. whether he had written the prescription for Respondent with three refills. Walgreens faxed a copy of the prescription to Dr. L. After examining the prescription, Dr. L. saw that it had the number "3" written in the refill section. Dr. L. told the staff at Walgreens that he did not write the number 3 in the refill section and that they were not to dispense the three refills. Dr. L. contacted the Manager at the Emergency Department regarding his concern about possible prescription tampering by Respondent.

22. On March 28, 2003, Respondent admitted to the Emergency Department Manager and the hospital's Clinical Coordinator that she had written in the number 3 in the refill area of the prescription.

1                   **Self-Administration of Controlled Substances:**

2                   **Positive Drug Screen of July 20, 2004:**

3                   23.    On or before July 20, 2004, Respondent self-administered an unknown  
4 quantity of the controlled substances, methamphetamine, hydrocodone, and amphetamine  
5 without lawful authority therefor, as follows:

6                   24.    On July 20, 2004, during an interview by an investigator with the Division  
7 of Investigation, Department of Consumer Affairs<sup>1</sup>, Respondent agreed to provide a urine  
8 specimen for drug testing. The investigator witnessed and collected the urine specimen from  
9 Respondent and it was sent to Valley Toxicology Laboratory for analysis. Respondent tested  
10 positive for, among other things, methamphetamine, hydrocodone, and amphetamine.

11                  25.    On September 2, 2004, the investigator sent Respondent a letter, notifying  
12 Respondent that she had tested positive for various drugs and requesting proof of all prescription  
13 medications she was taking. Respondent provided the Board with a prescription for  
14 hydrocodone/APAP she had filled at Rite Aid Pharmacy on *October 7, 2004*. Respondent has  
15 failed to provide the Board with any documentation or proof that she had lawful prescriptions for  
16 hydrocodone, methamphetamine, or amphetamines in effect as of the date of her drug screen.

17                   **Positive Drug Screen of February 2005:**

18                  26.    On or before February 1, 2005, Respondent self-administered an unknown  
19 quantity of the controlled substances, cocaine, codeine, morphine, and hydrocodone, without  
20 lawful authority therefor, as follows:

21                  27.    On or about September 4, 2004, Respondent was hired by Access Nurses,  
22 a privately owned nursing registry located in San Diego, California. On or about January 10,  
23 2005, Access Nurses was contacted by Salinas Valley Memorial Healthcare Systems, where  
24 Respondent had been assigned to work, requesting that Respondent not return to their facility due  
25 to certain complaints, including that Respondent was leaving the ward and her patients

26                  ///

27 \_\_\_\_\_  
28                  1. The Division of Investigation conducted an investigation on behalf of the Board regarding the  
allegation against Respondent for prescription tampering.

1 unattended. Access Nurses placed Respondent on per diem assignments and requested that she  
2 take a drug screen.

3 28. On February 1, 2005, Respondent underwent a drug test at Quest  
4 Diagnostics. Respondent tested positive for cocaine metabolites, codeine, morphine, and  
5 hydrocodone.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Falsification of a Record Pertaining to Controlled Substances)**

8 29. Respondent is subject to disciplinary action pursuant to Code section  
9 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section  
10 2762, subdivision (e), in that on and between March 26, 2003, and March 27, 2003, while  
11 employed as a registered nurse in the Emergency Department at Methodist Hospital, Sacramento,  
12 California, Respondent falsified a record pertaining to the controlled substance Vicodin, as set  
13 forth in paragraphs 17 through 22 above.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Violating or Attempting to Violate a Provision of the Nursing Practice Act)**

16 30. Respondent is subject to disciplinary action pursuant to Code section  
17 2761, subdivision (d), in that on and between March 26, 2003, and March 27, 2003, while  
18 employed as a registered nurse in the Emergency Department at Methodist Hospital, Sacramento,  
19 California, Respondent attempted to violate, directly or indirectly, Code section 2761,  
20 subdivision (a), in conjunction with Code section 2762, subdivision (a), as follows:

21 31. After receiving a prescription for 15 tablets of the controlled substance  
22 Vicodin from Dr. L., Respondent altered the prescription by writing in the number 3 in the refill  
23 area of the prescription, in violation of Health & Saf. Code section 11368. In fact, Dr. L. had not  
24 authorized any refills of the medication. Respondent then went to Walgreens Pharmacy and  
25 uttered or presented the altered prescription to pharmacy staff in an attempt to obtain  
26 unauthorized refills of Vicodin, in violation of Health & Saf. Code sections 11173,  
27 subdivision (a), and 11368.

28 ///

1 PRAYER


2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 569422, issued  
5 to Kathy L. Nesmon, also known as Kathy Lynne Nesmon;

6 2. Ordering Kathy L. Nesmon, also known as Kathy Lynne Nesmon, to pay  
7 the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this  
8 case, pursuant to Business and Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: 1/26/06.

11   
12 RUTH ANN TERRY, M.P.H., R.N.  
13 Executive Officer  
14 Board of Registered Nursing  
15 Department of Consumer Affairs  
16 State of California

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27 Complainant